

Order

Michigan Supreme Court
Lansing, Michigan

November 29, 2006

Clifford W. Taylor,
Chief Justice

130187

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

JOANN KUSMIERZ, KERRY KUSMIERZ,
KIM L. LINDEBAUM, JAMES B.
LINDEBAUM, and M SUPPLY CO.,
Plaintiffs-Appellants,

v

SC: 130187
COA: 258021
Bay CC: 01-003467-CZ

JOYCE SCHMITT and DIANE RANKIN,
Defendants-Appellees,

and

RONALD SCHMITT,
Defendant.

On November 14, 2006, the Court heard oral argument on the application for leave to appeal the November 15, 2005 judgment of the Court of Appeals. On order of the Court, the application is again considered. MCR 7.302(G)(1). In lieu of granting leave to appeal, we REVERSE that part of the Court of Appeals judgment assessing case evaluation sanctions, and REMAND this case to the Bay Circuit Court for further proceedings not inconsistent with this order. Because the parties stipulated to a lump sum case evaluation award, there was no "amount of the evaluation . . . as to . . . particular pair[s] of parties" for purposes of MCR 2.403(O)(4)(a). Without such an amount, the court cannot compare the verdict to the case evaluation award for each pair of parties as required by the court rules, and the court cannot determine whether either party received a more favorable verdict. Therefore, neither party is entitled to case evaluation sanctions. Plaintiffs are directed to reimburse defendants for the case evaluation sanctions that have already been paid.

We do not retain jurisdiction.



d1121

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 29, 2006

Corbin R. Davis

Clerk